

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

MANUEL DE LA CRUZ, JR.,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-20-01163-JD
)	
GRADY COUNTY JAIL MEDICAL,)	
)	
Defendant.)	

ORDER ADOPTING REPORT AND RECOMMENDATION

On December 3, 2020, United States Magistrate Judge Suzanne Mitchell granted Plaintiff's Motion for Leave to Proceed *in Forma Pauperis* [Doc. No. 7] to the extent the motion sought to proceed without prepayment of the full filing fee, and ordered Plaintiff to pay an initial partial filing fee by December 28, 2020, followed by a monthly payment schedule until the total filing fee of \$350.00 was paid in full. [Doc. No. 8]. Plaintiff was cautioned that failure to pay the initial partial filing fee by December 28, 2020 would result in dismissal of this action without prejudice to refiling. [*Id.* at 1].

When Plaintiff informed the Court that he would be unable to pay the fee by the deadline [*see* Doc. Nos. 10, 12, and 13], Judge Mitchell on her own order extended Plaintiff's deadline to pay the initial filing fee of \$12.48 until January 7, 2021, and then again extended the deadline to pay the initial filing fee of \$12.48 until January 28, 2021. [Doc. Nos. 11, 14]. Each time Judge Mitchell again advised Plaintiff that failure to make the initial filing fee payment by the new deadlines would result in dismissal of the action without prejudice. [Doc. No. 11 at 1; Doc. No. 14 at 1–2]. Plaintiff did not pay the initial

filing fee.

On February 3, 2021, Judge Mitchell issued a Report and Recommendation [Doc. No. 15] recommending that this action be dismissed without prejudice for Plaintiff's failure to pay the initial filing fee of \$12.48. Judge Mitchell advised Plaintiff of his right to object to the Report and Recommendation by February 24, 2021, and that Plaintiff's failure to make a timely objection waives the right to appellate review of the factual findings and legal issues in the Report and Recommendation. [*Id.* at 2–3].

Plaintiff has not filed any objection or sought an extension of time to do so. Nor has Plaintiff paid the required initial partial filing fee.

Upon its review of the record as a whole and the Report and Recommendation, the Court **ADOPTS** the Report and Recommendation [Doc. No. 15] in its entirety for the reasons stated therein. Accordingly, the Court **DISMISSES** Plaintiff's action without prejudice.

IT IS SO ORDERED this 8th day of March 2021.

A handwritten signature in black ink, appearing to read "Jodi W. Dishman", is written over a horizontal line.

JODI W. DISHMAN
UNITED STATES DISTRICT JUDGE